

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

NEW CONTENDERS, INC. and
DILLON PRODUCTIONS, INC.,

Plaintiff,

vs.

SERGIO CERDA dba Acapulco Café, et
al.

Defendants.

1:96-CV-06068-OWW-SMS

ORDER GRANTING MOTION FOR
APPOINTMENT OF RECEIVER OF LIQUOR
LICENSE UNDER C.C.P. § 708.610, C.C.P. §
708.620, C.C.P. § 708.630 AND
FED.R.CIV.PRO. 66 (DOC. 70)

Said notice of motion and motion for assignment of rights came on regularly for hearing this 11th day of April, 2011 at 10:00 a.m. in Courtroom 3, before the Honorable Oliver W. Wanger, Judge of the United States District Court. Defendant did not file an opposition and did not appear at the hearing. After considering papers in support thereof, and for good cause appearing,

IT IS HEREBY ORDERED that the motion for appointment of receiver is hereby granted.

IT IS FURTHER ORDERED that the court authorizes the appointment of a receiver under C.C.P. § 708.610, C.C.P. § 708.620, C.C.P. § 708.630, and with all rights and powers under Fed.R.Civ.Pro. 66.

IT IS FURTHER ORDERED that the court appoints ROBERT A. HAWKINS, JAMES E. SALVEN, or SHERYL A. STRAIN, as a receiver herein, by which to perform the duties and responsibilities as set forth by way of this order, and that the receiver be compensated at the expense of the Defendant, by way of a percentage which may arise out of and based upon any collection or recovery herein.

IT IS FURTHER ORDERED that the receiver shall have the following duties and powers

pursuant to Fed.R.Civ.P. 66:

1. To take possession and control of the liquor licenses of the Defendant, pursuant to the rules and regulations of the California Department of Alcoholic Beverage Control.

2. To file with the California Department of Alcoholic Beverage Control the surrender of the liquor licenses under Rule 65, the effect of which would be to terminate the operation of the business, in that the receiver would have no interest in operating the business and subjecting himself to personal liability thereunder.

3. That the receiver would retain the services of a business opportunity broker who would place the liquor licenses on the market for purposes of a competitive sale.

4. That the receiver would retain the services of an attorney and an accountant by which to aid and assist in the sale of the liquor licenses.

5. That the Defendant would be restrained, stayed and prohibited from continuing to operate the businesses, pending the sale of the liquor licenses, that they would be restrained from the sale, transfer, or other disposition of the licenses; that they would be restrained from any act to interfere with the receiver, either in part or in whole.

6. That the receiver would hold the proceeds in trust, pending further order of this court.

7. That the receiver would proceed with a sale of the liquor licenses, pay any priority tax liens, if at all, and distribute the balance of the funds first to this Plaintiff, and thereafter to other creditors, if any

IT IS SO ORDERED.

Dated: May 2, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE